



State of Rhode Island and Providence Plantations

State House
Providence, Rhode Island 02903-1196
401-222-2080

Donald L. Carcieri
Governor

November 9, 2009

TO THE HONORABLE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES:

In accordance with the provisions of Section 14, Article IX of the Constitution of the State of Rhode Island and Section 43-1-4 of the Rhode Island General Laws, I transmit, with my disapproval, 2009 H 5738, Substitute A, "Relating to Courts and Civil Procedures – Procedure in Particular Actions – Wrongful Death."

This act would allow for the recovery of punitive damages in a wrongful death lawsuit. Punitive damages are damages above and beyond what is required to compensate a plaintiff for his or her loss, when the "wrong done to him [or her] was aggravated by circumstances of violence, oppression, malice, fraud, or wanton and wicked conduct on the part of the defendant," and are imposed to make an example and punish the defendant. Black's Law Dictionary 390 (6th ed. 1990).

Although I am cognizant that there may be times when an individual or entity acts so egregiously that civil punitive damages may be appropriate, I have concerns with the passage of this legislation. First, this bill does not specify the level of culpability or limit what would be required when punitive damages would be imposed. It appears most other states do not allow punitive damages in wrongful death actions, but those who do, such as Massachusetts, require "gross negligence" and have other limitations.

Secondly, without any limitation or culpability requirement, increasing potential liability for wrongful death suits may serve to deter economic development in Rhode Island. In this current economic crisis, exposing businesses to further liability, with damages above and beyond mere restoration, would provide additional reason for businesses to avoid operating in Rhode Island or move elsewhere.

Finally, if this change was implemented with appropriate limitations and requirements and was part of a larger tort and medical malpractice reform legislative package, I would be amenable to give further consideration to this issue.

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For these reasons, I disapprove of this legislation and respectfully urge your support of this veto.

Sincerely,

A handwritten signature in dark ink, appearing to read "Donald L. Carcieri", with a long horizontal flourish extending to the right.

Donald L. Carcieri
Governor